

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JENNIFER W.¹,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:24-cv-01957-CKD

ORDER

Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying applications for Disability Income Benefits (“DIB”) and Supplemental Security Income (“SSI”) under Titles II and XVI of the Social Security Act (“Act”), respectively. The parties have consented to magistrate judge jurisdiction. For the reasons discussed below, the court will deny plaintiff’s motion for summary judgment and grant the Commissioner’s cross-motion for summary judgment.

BACKGROUND

Plaintiff, born in 1981, applied for DIB and SSI on February 5, 2018, alleging disability beginning May 1, 2015. Administrative Transcript (“AT”) 454, 2249. Plaintiff alleged she was

¹ Plaintiff’s full name is redacted for privacy reasons by court order.

1 unable to work due to anxiety, trauma, ADHD, and depression. AT 455. On December 18, 2020,
2 an Administrative Law Judge (ALJ) issued a decision finding plaintiff not disabled between the
3 alleged onset date of May 1, 2015 and the date of the decision. AT 203-212. After additional
4 administrative review, ALJ Sara Gillis issued a second decision on November 15, 2021 finding
5 plaintiff not disabled during the period of May 1, 2015 through the date of the decision. AT 15-
6 38. After the Appeals Council affirmed this decision, plaintiff filed a complaint in District Court;
7 on October 5, 2022, the parties stipulated to remand the case for further proceedings. AT 2318-
8 2319. On March 18, 2024, ALJ Gillis issued a third decision, finding plaintiff not disabled during
9 the period of May 1, 2015 through the date of the decision. AT 2194-2208. Plaintiff challenges
10 this decision in the instant case.

11 In the March 18, 2024 decision, the ALJ made the following findings (citations to 20
12 C.F.R. omitted):

- 13 1. The claimant has engaged in substantial gainful activity since May
14 1, 2015, the alleged onset date.
- 15 2. The claimant has the following severe impairments: mood
16 disorder; anxiety disorder; schizophrenia; polysubstance abuse
disorder; post-traumatic stress disorder (PTSD); personality
disorder; and attention deficit hyperactivity disorder (ADHD).
- 17 3. Including the claimant's substance use, the severity of the
18 claimant's impairments met the criteria of section 12.03 of 20 CFR
Part 404, Subpart P, Appendix 1.
- 19 4. If the claimant stopped the substance use, the remaining
20 limitations would cause more than a minimal impact on the
claimant's abilities to perform basic work activities; therefore, the
claimant would have a severe impairment or combination of
impairments.
- 22 5. If the claimant stopped the substance use, the claimant would not
23 have an impairment or combination of impairments that meets or
medically equals the severity of one of the impairments listed in 20
CFR Part 404, Subpart P, Appendix 1.
- 25 6. After careful consideration of the entire record, the undersigned
finds that, if the claimant stopped the substance abuse, the claimant
has had the residual functional capacity to perform a full range of
work at all exertional levels but with the following nonexertional
limitations: simple, routine tasks; able to concentrate, persist, and
maintain pace for 2 hour increments over an 8-hour period;
occasionally deal with changes in the workplace; and occasionally
interact with the public and coworkers.

- 1 7. The claimant is still unable to perform past relevant work.
- 2 8. The claimant has at least a high-school education.
- 3 9. Transferability of job skills is not material to the determination of
4 disability because using the Medical-Vocational Rules as a
4 framework supports a finding that the claimant is ‘not disabled,’
4 whether or not the claimant has transferable job skills.
- 5 10. If the claimant stopped the substance abuse, considering the
6 claimant’s age, education, work experience, and residual functional
6 capacity, there have been jobs that exist in significant numbers in the
7 national economy that the claimant can perform.
- 8 11. The substance abuse disorder is a contributing factor material to
9 the determination of disability because the claimant would not be
9 disabled if he [sic] stopped the substance use.² Because the
10 substance use disorder is a contributing factor material to the
10 determination of disability, the claimant has not been disabled within
11 the meaning of the Social Security Act at any time from the alleged
11 onset date through the date of this decision.

12 AT 2197-2208.

13 ISSUES PRESENTED

14 Plaintiff argues that the ALJ committed the following errors in finding plaintiff not
15 disabled: (1) the ALJ erred in evaluating the medical evidence; (2) the ALJ erred in evaluating
16 plaintiff’s subjective statements; (3) the ALJ erred in determining that substance abuse is material
17 to a finding of disability; (4) and the ALJ erred in assessing plaintiff’s residual functional
18 capacity.

19 LEGAL STANDARDS

20 The court reviews the Commissioner’s decision to determine whether (1) it is based on
21 proper legal standards pursuant to 42 U.S.C. § 405(g), and (2) substantial evidence in the record
22 as a whole supports it. Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial
23 evidence is more than a mere scintilla, but less than a preponderance. Connett v. Barnhart, 340
24 F.3d 871, 873 (9th Cir. 2003) (citation omitted). It means “such relevant evidence as a reasonable
25 mind might accept as adequate to support a conclusion.” Orn v. Astrue, 495 F.3d 625, 630 (9th
26 Cir. 2007), quoting Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005). “The ALJ is

28 ² Citing 20 CFR 404.1520(g), 404.1535, 416.920(g) and 416.935.

1 responsible for determining credibility, resolving conflicts in medical testimony, and resolving
2 ambiguities.” Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001) (citations omitted).
3 “The court will uphold the ALJ’s conclusion when the evidence is susceptible to more than one
4 rational interpretation.” Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008).

5 The record as a whole must be considered, Howard v. Heckler, 782 F.2d 1484, 1487 (9th
6 Cir. 1986), and both the evidence that supports and the evidence that detracts from the ALJ’s
7 conclusion weighed. See Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). The court may not
8 affirm the ALJ’s decision simply by isolating a specific quantum of supporting evidence. Id.; see also Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence supports the
9 administrative findings, or if there is conflicting evidence supporting a finding of either disability
10 or nondisability, the finding of the ALJ is conclusive, see Sprague v. Bowen, 812 F.2d 1226,
11 1229-30 (9th Cir. 1987), and may be set aside only if an improper legal standard was applied in
12 weighing the evidence. See Burkhart v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

14 ANALYSIS

15 As a preliminary matter, the ALJ’s decision notes that plaintiff “is requesting a closed
16 period decision from May 1, 2015 through June 30, 2018.” AT 2194. At the January 4, 2024
17 hearing before ALJ Gillis, plaintiff confirmed that was the period at issue. AT 2247. Thus, the
18 court will focus on that period of alleged disability.

19 Plaintiff testified at the hearing that she had been sober for over five years, since
20 September 2018. AT 2252. Explaining his argument concerning the period at issue, plaintiff’s
21 attorney stated:

22 ATTY: This onset, you know, with the 2015 – I mean, we’re looking
23 at multiple rehabs during this period, Cura, Chrysalis, Serenity
24 House, and that’s like the 2015 to 2018 period where she was
25 attempting, you know, doing periods of sobriety, having issues with
26 these programs, relapsing[.] . . . [S]o while she was using, for sure,
there was some obvious symptom exacerbation, particularly in terms
of psychotic symptoms. But you know, there was also treating . . .
obviously maladaptive coping strategy, but . . . treating underlying
ADHD, PTSD, and anxiety.

27 AT 2259-2260.

28 Similarly, plaintiff asserts in her briefing:

1 Plaintiff agrees that her prior substance abuse aggravated her
2 psychotic symptoms, leading to her frequent arrests and
3 hospitalizations. However, . . . psychosis is not the primary basis for
4 her disability, but rather anxiety, poor focus, and panic attacks,
5 consistent with her past diagnoses of generalized anxiety disorder
6 with panic attacks, ADHD, and PTSD.

7 (ECF No. 20 at 4.)

8 Put simply, this case involves teasing out plaintiff's substance abuse-related symptoms
9 from her other mental symptoms, as it relates to disability during the three-year period at issue.
10 Defendant argues that the ALJ's evaluation of this issue was proper and should be affirmed.

11 A. Medical Evidence

12 Plaintiff argues that the ALJ erred in rejecting or partially rejecting (1) the 2019 opinion
13 of clinical recovery counselor Aminata Fielder, and (2) the 2021 opinion of examining
14 psychologist Dr. Katherine Wiebe.

15 "The ALJ is responsible for translating and incorporating clinical findings into a succinct
16 RFC." Rounds v. Comm'r Soc. Sec. Admin., 807 F.3d 996, 1006 (9th Cir. 2015). In doing so,
17 the ALJ must articulate a "substantive basis" for rejecting a medical opinion or crediting one
18 medical opinion over another. Garrison v. Colvin, 759 F.3d 995, 1012 (9th Cir. 2014); see also
Marsh v. Colvin, 792 F.3d 1170, 1172-73 (9th Cir. 2015) ("an ALJ cannot in its decision totally
ignore a treating doctor and his or her notes, without even mentioning them").

19 For disability applications filed on or after March 27, 2017, the Commissioner revised the
20 rules for the evaluation of medical evidence at the administrative level. See Revisions to Rules
21 Regarding the Evaluation of Medical Evidence, 82 Fed. Reg 5844-01 (Jan. 18, 2017). Because
22 plaintiff filed her application in 2018, it is subject to the new rules for the evaluation of medical
23 evidence.

24 The revised rules provide that adjudicators for the Social Security Administration,
25 including ALJs, evaluate medical opinions according to the following factors: supportability;
26 consistency; relationship with the claimant; specialization; and other factors such as the medical
27 source's familiarity with other evidence in the record or with disability program requirements. 20
28 C.F.R. § 416.920c(c)(1)-(5). The most important of these factors are supportability and

1 consistency. 20 C.F.R. § 416.920c(b)(2). Supportability is the extent to which an opinion or
2 finding is supported by relevant objective medical evidence and the medical source's supporting
3 explanations. 20 C.F.R. § 416.920c(c)(1). Consistency is the extent to which an opinion or
4 finding is consistent with evidence from other medical sources and non-medical sources,
5 including the claimants themselves. 20 C.F.R. §§ 416.920c(c)(2), 416.902(j)(1). The ALJ will
6 articulate how he considered the most important factors of supportability and consistency, but an
7 explanation for the remaining factors is not required except when deciding among differing yet
8 equally persuasive opinions or findings on the same issue. 20 C.F.R. § 416.920c(b). The new
9 regulations "still require that the ALJ provide a coherent explanation of his reasoning" and
10 establish "a minimum level of articulation to be provided in determinations and decisions, in
11 order to provide sufficient rationale for a reviewing adjudicator or court." Sam-Chankhiao v.
12 Kijakazi, 2:20-cv-0186 DB, 2022 WL 4226170, at *3 (E.D. Cal. Sept. 13, 2022), citing Hardy v.
13 Commissioner, 554 F.Supp.3d 900, 906 (E.D. Mich. 2021).

14 1. Ms. Fielder

15 Ms. Fielder was plaintiff's clinical counselor at Chrysalis Recovery Center, where she
16 treated plaintiff once a week for six months. AT 78-79. On June 19, 2019³, Ms. Fielder filled out
17 a Medical Impairment Questionnaire in which she opined that plaintiff had extreme limitations in
18 the ability to complete a normal workday and workweek without interruptions from
19 psychologically based symptoms; work with or near others without being unduly distracted or
20 distracting them; and deal with normal work stress. AT 1778. Ms. Fielder further opined that
21 plaintiff had marked limitations in the ability to: maintain attention for two-hour segments;
22 maintain regular attendance and be punctual; perform at consistent pace without unreasonable rest
23 periods; sustain an ordinary routine without special supervision, and respond appropriately to
24 changes in the work setting. AT 1778. She also found plaintiff to have moderate mental
25 limitations in some areas. AT 1778.

26
27

³ Notably, Ms. Fielder's opinion was issued a year after the period of alleged disability ended on
28 June 30, 2018. Its probative value of plaintiff's mental condition during the relevant period is
somewhat limited.

1 Ms. Fielder opined that plaintiff's impairments would interfere with her concentration or pace
2 of work 50 percent of the time and cause her to miss work about one day per month. AT 1779.
3 To the question, "Would the patient's impairments remain as severe in the absence of substance
4 abuse?", Ms. Fielder answered: "Yes." AT 1779. She added that plaintiff "tends to be come
5 overwhelmed easily." AT 1779.

6 The ALJ evaluated this opinion as follows:

7 The undersigned finds Ms. Fielder's opinions and [sic] persuasive,
8 as it is unclear whether her opinions refer to the claimant's
9 limitations while under the influence or sober. The undersigned finds
10 that Ms. Fielder's opinions, if they are intended to refer to the
11 claimant's condition when sober, are not consistent with or supported
12 by the longitudinal evidence of record, which generally reflects no
more than mild to moderate limitations in the claimant's ability to
function cognitively or socially. The record repeatedly reflects that
the claimant's mental conditions significantly improved during
periods of sobriety and often reflected only mild findings at mental
status examinations.

13 AT 2206.

14 Plaintiff argues that the ALJ did not address Ms. Fielder's statement that plaintiff's
15 impairments would be as severe in the absence of substance abuse. However, the ALJ assumed
16 for purposes of evaluation that Ms. Fielder's opinion concerned plaintiff during a period of
17 sobriety. As both Ms. Fielder and the ALJ were considering plaintiff's "condition when sober,"
18 the question is whether the ALJ sufficiently addressed the supportability and consistency factors.

19 The ALJ found that Ms. Fielder's opinions "are not consistent or supported by the
20 longitudinal evidence of record," which "repeatedly reflects that the claimant's mental conditions
21 significantly improved during periods of sobriety and only reflected mild findings at mental status
22 examinations." AT 2206. Summarizing the medical evidence earlier in the opinion, the ALJ
23 noted multiple events in the 2015-2018 timeframe in which plaintiff initially presented with
24 severe mental symptoms (in an emergency room, psychiatric facility, rehab facility, etc.), but
25 once the drug effects wore off, had largely normal mental status examinations. AT 2198-2199,
26 citing AT 651-652, 727, 883, 897, 902, 959 (July 2018 normal mental status exam noting
27 plaintiff's statement: "I am doing fine now. I was just high" the previous day), 1662, 1675, 1677-
28 1678, 1691, 1708 (September 2017 note that plaintiff had been sober 14 months before relapsing

1 and “talked about how she was able to work two jobs while sober”), 1711.

2 “Over the course of the claimant’s emergency room visits,” the ALJ wrote in a summary
3 of the medical evidence, “she repeatedly had improvement of her symptoms as the effects of the
4 drugs and alcohol subsides.” AT 2202. The ALJ discounted Ms. Fielder’s opinion that plaintiff
5 had multiple marked and extreme mental symptoms that would “remain as severe” in the absence
6 of substance abuse, reasoning that this opinion was not supported by or consistent with the
7 longitudinal medical record. The ALJ provided sufficient rationale for the court to review,
8 supported by substantial evidence, and the court finds no error on this basis.

9 2. Dr. Wiebe

10 Dr. Katherine Wiebe conducted a psychological evaluation of plaintiff in May 2021,
11 nearly three years after the period of alleged disability ended.⁴ AT 2047-2060. Dr. Wiebe opined
12 that plaintiff had moderate impairment in attention and concentration; mild impairment in
13 memory and sensory-motor functioning; and normal executive, language, and overall intellectual
14 abilities. AT 2059.

15 Dr. Wiebe further opined that plaintiff had multiple mental impairments related to “the
16 demands of an employment situation,” stating:

17 She has problems with social interactions and would have difficulties
18 relating to others, including co-workers, the public, and supervisors,
19 in a workplace on a consistent basis.

20 ...

21 Her cognitive, psychiatric, and Personality Disorder symptoms
22 would make it difficult for her to perform in a regular full time job.

23 AT 2059.

24 The ALJ evaluated this opinion as follows:

25 The undersigned finds Dr. Wiebe’s opinions partially persuasive, as
26 they are generally consistent with and supported by the longitudinal
27 evidence of record, which reflect that the claimant has ongoing
28 limitations in her ability to maintain focus, interact with others, and

27 ⁴ At that time, plaintiff reported that she had worked at Costco for about a year, working 25 to
28 32 hours a week. AT 2049. She reported that she had last used methamphetamine and marijuana
in 2018. AT 2051.

1 deal with usual stressors encountered in a work environment, even
 2 during periods of sobriety. However, the undersigned finds
 3 insufficient evidence in the record to support a marked impairment
 4 in any area while the claimant is sober. The claimant is able to
 maintain employment above the threshold for substantial gainful
 activity and has generally only mild findings at mental status
 examinations during periods of sobriety.

5 AT 2201; see also AT 2205 (ALJ notes that “the claimant has been sober since approximately
 6 2018 and has been able to maintain employment beyond the threshold for substantial gainful
 7 activity during that time.”⁵).

8 Plaintiff argues that the ALJ erred in rejecting the presence of moderate to marked
 9 impairments assessed by Dr. Wiebe, citing evidence that plaintiff continued to have anxiety and
 10 panic attacks after three years’ sobriety and had trouble getting along with co-workers and
 11 supervisors. This is essentially an attempt to reweigh the evidence in plaintiff’s favor. As
 12 discussed above, ample evidence supports the ALJ’s conclusion that Dr. Wiebe’s 2021 opinion is
 13 not entirely consistent with the longitudinal record during the years of 2015 to 2018, when
 14 plaintiff was repeatedly found to have mild or normal mental findings when sober.

15 Plaintiff’s ability to sustain employment—albeit with some difficulty—in the 2019-2021
 16 period also supports the ALJ’s discounting of Dr. Wiebe’s opinion insofar as it suggests plaintiff
 17 was mentally incapable of working. See Ford v. Saul, 950 F.3d 1141, 1156 (9th Cir. 2020)
 18 (affirming ALJ finding that medical opinion was inconsistent with plaintiff’s job, “which
 19 demonstrated ability to sustain a work schedule, tolerate work-related stress, and perform simple
 20 tasks”), citing Drouin v. Sullivan, 966 F.2d 1255, 1258 (9th Cir. 1992).

21 As in the other medical opinion claim, the ALJ provided sufficient rationale for the court
 22 to review, supported by substantial evidence, and the court finds no error on this basis.

23 **B. Subjective Statements**

24 Plaintiff claims the ALJ erred in discounting plaintiff’s subjective symptom testimony by
 25 failing to provide clear and convincing reasons linked to specific evidence. Defendant argues that
 26 the ALJ reasonably discounted plaintiff’s subjective symptoms because they were not entirely

27 ⁵ Citing AT 2420 (earnings records indicating that plaintiff earned \$9,353.80 in 2018; \$25,738.26
 28 in 2019; \$27,114.31 in 2020; and \$24,293.37 in 2021).

1 consistent with the objective medical and treatment evidence.

2 The ALJ summarized plaintiff's testimony at the January 4, 2024 hearing as follows:

3 The claimant alleges that she is disabled due to a combination of
4 mental impairments. She reports a period of mental instability
5 beginning in 2014, caused by significant life stressors. She reports
6 that, during the period of 2015 through June 2018, she had extreme
7 anxiety and poor focus due to ADHD. She reported that she was
8 unable to complete tasks. She reports panic attacks, during which
9 her mind would race. She reports a history of verbal altercations with
coworkers and managers. She suffered from addiction issues and
reported that she has been sober since September 2018. She reports
a dramatic improvement in her symptoms with medication and
treatment. She is currently working and reports that when she is
exposed to triggers, she is better able to manage due to behavioral
therapy techniques.

10 AT 2197-2198, citing AT 2247-2266.

11 The ALJ found plaintiff to have multiple severe mental impairments consisting of mood
12 disorder, anxiety disorder, schizophrenia, PTSD, personality disorder, and ADHD. AT 2197.
13 The assessed RFC includes several non-exertional limitations, corresponding in some degree to
14 plaintiff's subjective testimony. AT 2205. However, in finding that plaintiff's mental
15 impairments did not preclude all work, the ALJ discounted her testimony to some extent,
16 explaining as follows:

17 As for the claimant's statements about the intensity, persistence, and
18 limiting effects of her symptoms, they are inconsistent. The claimant
19 alleges that she is completely disabled due to her mental
impairments. The evidence of record reflects that the claimant had
20 frequent arrests and hospitalizations due to erratic behavior caused
by substance abuse. However, once the claimant metabolized the
21 substances in her body, her conditions significantly improved each
time, with only mild to moderate findings at mental status
examinations during periods of sobriety. The consultative
22 examinations indicated that the claimant is of average intelligence,
had moderate limitations focusing, and was calm and cooperative.⁶
Further, the claimant has been sober since approximately 2018, and
23 has been able to maintain employment beyond the threshold for
substantial gainful activity during that time. Based on the
24 longitudinal evidence, the undersigned finds that the claimant's
mental impairments do not preclude the claimant from performing
25 work, during periods of sobriety.

26 AT 2205.

27 _____
28 ⁶ Citing AT 1780-1791 (July 2019 evaluation by Dr. Parisa Shoja) and AT 2047-2063 (May 2021
evaluation by Dr. Katerine Wiebe).

1 The ALJ determines whether a disability applicant is credible, and the court defers to the
2 ALJ's discretion if the ALJ used the proper process and provided proper reasons. See, e.g.,
3 Saelee v. Chater, 94 F.3d 520, 522 (9th Cir. 1995). If credibility is critical, the ALJ must make an
4 explicit credibility finding. Albalos v. Sullivan, 907 F.2d 871, 873-74 (9th Cir. 1990). "Without
5 affirmative evidence showing that the claimant is malingering, the Commissioner's reasons for
6 rejecting the claimant's testimony must be clear and convincing." Morgan v. Commissioner of
7 Social Sec. Admin., 169 F.3d 595, 599 (9th Cir. 1999); see also Lambert v. Saul, 980 F.3d 1266,
8 1277–78 (9th Cir. 2020).

9 In evaluating whether subjective complaints are credible, the ALJ should first consider
10 objective medical evidence and then consider other factors. Bunnell v. Sullivan, 947 F.2d 341,
11 344 (9th Cir. 1991) (en banc). If there is objective medical evidence of an impairment, the ALJ
12 then may consider the nature of the symptoms alleged, including aggravating factors, medication,
13 treatment and functional restrictions. See id. at 345-47. The ALJ also may consider: (1) the
14 applicant's reputation for truthfulness, prior inconsistent statements or other inconsistent
15 testimony, (2) unexplained or inadequately explained failure to seek treatment or to follow a
16 prescribed course of treatment, and (3) the applicant's daily activities. Smolen v. Chater, 80 F.3d
17 1273, 1284 (9th Cir. 1996); see generally SSR 96-7P, 61 FR 34483-01; SSR 95-5P, 60 FR 55406-
18 01; SSR 88-13. When discounting subjective testimony, an ALJ must provide "specific, clear,
19 and convincing *reasons* for doing so." Wade v. Saul, 850 F. App'x 568, 569 (9th Cir. 2021)
20 (emphasis in original), citing Lambert, 980 F.3d at 1277–78. This standard does "not require
21 ALJs to perform a line-by-line exegesis of the claimant's testimony[.]" Lambert, 980 F.3d at
22 1277. However, an ALJ's detailed overview of the claimant's medical history—coupled with a
23 nonspecific boilerplate conclusion that her testimony is "not entirely consistent" with her medical
24 treatment—is not enough to satisfy the minimal requirements for assessing credibility. Id. at
25 1277–78.

26 Here, the ALJ considered the objective medical evidence of mental impairment, including
27 "mild to moderate findings at mental status examinations during periods of sobriety." See AT
28 2198-2200. The ALJ also considered a 2019 consultative psychological evaluation by Dr. Shoja,

1 who found plaintiff to present normally and have no significant mental limitations in several
2 areas, with some mild and moderate limitations. This evidence reasonably can be said to
3 undercut plaintiff's claims that her mental symptoms were so severe as to preclude all work. The
4 ALJ also cited plaintiff's demonstrated ability to maintain work after achieving sobriety, which
5 could be viewed as inconsistent with her testimony that she was unable to work, regardless of
6 sobriety.

7 Because the ALJ used the proper process and provided proper reasons, the court defers to
8 her credibility determination.

9 **C. Substance Abuse Material to Finding of Disability**

10 Plaintiff claims that the ALJ erred in finding at step five that "the substance use disorder is
11 a contributing factor material to the determination of disability[.]" AT 2208.

12 The ALJ determined polysubstance abuse disorder to be among plaintiff's severe
13 impairments. AT 2197. Based on vocational expert testimony on plaintiff's assessed RFC,
14 including multiple mental limitations, the ALJ concluded that "if the claimant stopped substance
15 use, [she] would be capable of making a successful adjustment to work that exists in significant
16 numbers in the national economy." AT 2208.

17 If it is found that the applicant is disabled under the five-step process and there is medical
18 evidence of a substance use disorder, including drug addiction or alcoholism ("DAA"), then the
19 ALJ must perform an additional step to determine whether the substance use disorder is a
20 contributing factor material to the determination of disability. See 20 C.F.R. §§ 404.1535,
21 416.935. The Social Security Act provides that a claimant "shall not be considered to be disabled
22 ... if alcoholism or drug addiction would ... be a contributing factor material to the ...
23 determination that the individual is disabled." 42 U.S.C. § 423(d)(2)(C). In determining whether
24 a claimant's DAA is material, the test is whether an individual would still be found disabled if he
25 or she stopped using drugs or alcohol. See 20 C.F.R. §§ 404.1535(b), 416.935(b); Parra v. Astrue,
26 481 F.3d 742, 746–47 (9th Cir. 2007); Sousa v. Callahan, 143 F.3d 1240, 1245 (9th Cir. 1998).
27 It is plaintiff's burden to show her substance abuse is not material to a finding of disability.
28 Parra, 481 F.3d at 748.

1 Here, in light of substantial evidence (discussed throughout the ALJ’s decision) that
2 plaintiff’s mental symptoms improved considerably when sober and she was able to maintain
3 employment after her sobriety date, plaintiff has not shown that substance abuse is not material.
4 See, e.g., AT 2201 (in assessing Dr. Wiebe’s report, ALJ “finds insufficient evidence in the
5 record to support a marked impairment in any area while the claimant is sober.”). The ALJ
6 reasonably relied on VE testimony that, even with mental limitations unrelated to substance
7 abuse, as reflected in the RFC, plaintiff could perform jobs such as cleaner, hand packager, and
8 dishwasher. AT 2208. Plaintiff has not shown error on this basis.

9 D. Residual Functional Capacity

10 Lastly, plaintiff claims that the ALJ erred by not including in the RFC a limitation in
11 interacting with supervisors, along with its limitation to occasional interaction “with the public
12 and coworkers.” Plaintiff cites her “history of conflict at work, not just with coworkers and
13 customers, but with management as well.” (ECF No. 13 at 23.)

14 At the January 4, 2024 hearing, plaintiff testified that she had experienced conflicts with
15 supervisors in several jobs, and had trouble keeping jobs for more than a few months. AT 2261-
16 2264. However, she was currently employed at Starbucks, which offered accommodations and
17 support for her mental health challenges. AT 2261.

18 Plaintiff’s attorney asked the VE if there was “any employment for someone who is
19 unable to respond to conflict with supervisors without exhibiting behavioral extremes?” AT
20 2268-2269. The VE responded: “Yeah. Of course. It depends on the employer. It depends on
21 whether there is accommodation. It depends on what the extremes are. But as a general rule,
22 behavioral extremes in the workplace are reason for termination.” AT 2269.

23 In her decision, the ALJ noted plaintiff’s reported “history of verbal altercations with
24 coworkers and managers.” AT 2197. The ALJ also noted that, in April 2017, during the period
25 of alleged disability, she had a waitressing job which she described as “not too bad”; in April
26 2018, she was working 35 hours a week at Buffalo Wild Wings. AT 2199, citing AT 1722, 1725.
27 The ALJ found plaintiff to have moderate limitations in interacting with others, noting that, since
28 achieving sobriety, “[s]he has been able to return to work, which has included a role as a server,

1 requiring her to interact with supervisors, coworkers, and customers.” AT 2203 (citing hearing
2 testimony). However, in reviewing the medical opinion evidence, the ALJ found that, even
3 during periods of sobriety, plaintiff “had moderate or ongoing issues with irritability and
4 difficulty getting along with others.” AT 2207.

5 As to limitations on interacting with others, the ALJ found the February 2020 testimony
6 of medical expert Dr. Joseph Malancharuvil persuasive. At the second hearing on plaintiff’s
7 claims, Dr. Malancharuvil opined that, “when the claimant is sober, she has a mild to moderate
8 limitation in her ability to interact with others . . . He opined that she should avoid emotionally-
9 charged situations, but is capable of common transactions with people.” AT 2206, citing AT 86-
10 87. Specifically, Dr. Malancharuvil testified:

11 As long as she’s not interacting in an emotional job situation, such
12 as being a complaint taker or problem solver for others, she’s okay
13 in ordinary transactions. She’s easily irritated by people and their
14 reactions. So, while she should not be working as a receptionist, or
complaint taker or problem solver, she is capable of ordinary
commonplace transactions with people. . . . [S]he certainly will
function fine in object-oriented work.

15 AT 87.

16 Social Security Ruling 96-8p sets forth the policy interpretation of the Commissioner for
17 assessing residual functional capacity. SSR 96-8p. Residual functional capacity is what a person
18 “can still do despite [the individual’s] limitations.” 20 C.F.R. §§ 404.1545(a), 416.945(a) (2003);
19 see also Valencia v. Heckler, 751 F.2d 1082, 1085 (9th Cir. 1985) (residual functional capacity
20 reflects current “physical and mental capabilities”). RFC is assessed based on the relevant
21 evidence in the case record, including the medical history, medical source statements, and
22 subjective descriptions and observations made by the claimant, family, neighbors, friends, or
23 other persons. 20 C.F.R. §§ 404.1545(a)(1), 404.1545(a)(3). When assessing RFC, the ALJ must
24 consider the claimant’s “ability to meet the physical, mental, sensory, and other requirements of
25 work[.]” 20 C.F.R. §§ 404.1545(a)(4).

26 Here, the ALJ found plaintiff moderately limited in interacting with others, which she
27 translated into an RFC for “simple, routine tasks” and occasional interactions with “the public
28 and coworkers.” In a similar case, a court in this district rejected the argument that the ALJ erred

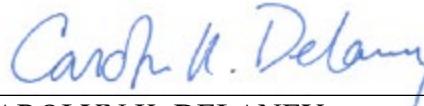
1 by not including a limited ability to interact with supervisors in the RFC, reasoning that “the
2 Ninth Circuit and courts in this circuit have concluded a limitation to ‘simple tasks’ . . .
3 adequately encompasses moderate limitations with respect to social functioning.” Garcia v.
4 Comm'r, No. 1:21-cv-01799-SAB, 2023 WL 4162766, *13 (E.D. Cal. June 22, 2023) (collecting
5 cases). Moreover, there is ample evidence that plaintiff could function without “behavioral
6 extremes” while sober, in addition to Dr. Malancharuvil’s opinion that she could engage in
7 “common transactions with people” in an object-oriented job. The VE identified object-oriented
8 jobs that did not involve being a “complaint taker or problem solver,” i.e., cleaner, hand packager,
9 and dishwasher. Thus, plaintiff’s assessed RFC was adequately explained and grounded in
10 substantial evidence.

11 CONCLUSION

12 For the reasons stated herein, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff’s motion for summary judgment (ECF No. 13) is denied;
14 2. The Commissioner’s cross-motion for summary judgment (ECF No. 17) is granted;
15 and
16 3. Judgment is entered for the Commissioner.

17 Dated: September 16, 2025



18 CAROLYN K. DELANEY
19 UNITED STATES MAGISTRATE JUDGE
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